

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :

- v. - :

MARTHA PATRICIA BUSTOS, :

Defendant. :

SEALED INFORMATION

19 Cr. _____

x **19 CRIM 482**

COUNT ONE

(Conspiracy to Commit Securities Fraud)

The United States Attorney charges:

Relevant Entities and Individuals

1. At all relevant times, Illumina, Inc. ("Illumina") was a biotechnology company headquartered in San Diego, California. Illumina's stock traded on NASDAQ under the ticker "ILMN."

2. At all relevant times, MARTHA PATRICIA BUSTOS, the defendant, was employed by Illumina. At certain relevant times, BUSTOS was a certified public accountant who worked in Illumina's accounting department. By virtue of her employment at Illumina, Bustos had access to material non-public information about Illumina's financial condition, including its earnings.

3. At all relevant times, a co-conspirator not named as a defendant herein ("CC-1"), was a friend of MARTHA PATRICIA BUSTOS, the defendant.

ORIGINAL

The Insider Trading Scheme

4. From in or about 2016 through in or about 2018, MARTHA PATRICIA BUSTOS, the defendant, breached the duties she owed to Illumina by passing material, nonpublic information about Illumina's financial condition ("Inside Information") to CC-1 so that CC-1 could use that Inside Information to execute timely trades in Illumina securities.

5. MARTHA PATRICIA BUSTOS, the defendant, passed this Inside Information to CC-1 in advance of the public release of this information through Illumina's quarterly reporting of its earnings and financial results. CC-1, in turn, used the Inside Information to cause timely trades in Illumina securities to be executed.

Statutory Allegations

6. From in or about 2016 through in or about 2018, in the Southern District of New York and elsewhere, MARTHA PATRICIA BUSTOS, the defendant, CC-1, and others known and unknown, willfully and knowingly combined, conspired, confederated and agreed together and with each other to commit an offense against the United States, to wit, securities fraud, in violation of Title 15, United States Code, Sections 78j(b) and 78ff, and Title 17, Code of Federal Regulations, Section 240.10b-5.

7. It was a part and an object of the conspiracy that MARTHA PATRICIA BUSTOS, the defendant, CC-1, and others known

and unknown, willfully and knowingly, directly and indirectly, by use of means and instrumentalities of interstate commerce, and of the mails, and of the facilities of national securities exchanges, would and did use and employ manipulative and deceptive devices and contrivances, in connection with the purchase and sale of securities, in violation of Title 17, Code of Federal Regulations, Section 240.10b-5, by (a) employing devices, schemes and artifices to defraud; (b) making untrue statements of material fact and omitting to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and (c) engaging in acts, practices and courses of business which operated and would operate as a fraud and deceit upon persons, in violation of Title 15, United States Code, Sections 78j(b) and 78ff.

Overt Acts

8. In furtherance of the conspiracy and to effect its illegal object, MARTHA PATRICIA BUSTOS, the defendant, CC-1, and others known and unknown, committed the following overt acts, among others, in the Southern District of New York and elsewhere:

a. On or about October 4, 2016, BUSTOS received Inside Information about Illumina's third quarter 2016 financial condition.

b. Shortly thereafter, on or about October 4, 2016, BUSTOS called CC-1.

c. On or about October 9, 2016, CC-1 and a co-conspirator not named as a defendant herein ("CC-2"), who was located in New York, New York, entered into a purported "Advisory Agreement."

d. On or October 10, 2016, CC-1, CC-2, and a co-conspirator not named as a defendant herein ("CC-3") arranged to purchase approximately 1,542 Illumina put option contracts in a brokerage account held by CC-3.

(Title 18, United States Code, Section 371.)

COUNT TWO
(Securities Fraud)

The United States Attorney further charges:

9. The allegations contained in paragraphs 1 through 5 and paragraph 8 of this Information are hereby repeated, realleged, and incorporated by reference, as if fully set forth herein.

10. From in or about 2016 through in or about 2018, in the Southern District of New York and elsewhere, MARTHA PATRICIA BUSTOS, the defendant, willfully and knowingly, directly and indirectly, by use of the means and instrumentalities of interstate commerce, and of the mails, and of the facilities of national securities exchanges, used and employed manipulative

and deceptive devices and contrivances, in connection with the purchase and sale of securities, in violation of Title 17, Code of Federal Regulations, Section 240.10b-5, by (a) employing devices, schemes and artifices to defraud; (b) making untrue statements of material fact and omitting to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and (c) engaging in acts, practices and courses of business which operated and would operate as a fraud and deceit upon persons, to wit, BUSTOS disclosed material, non-public information to CC-1 in violation of BUSTOS's fiduciary and other duties of trust and confidentiality and with the understanding that CC-1 was going to utilize that information to execute timely trades in the securities of Illumina.

(Title 15, United States Code, Sections 78j(b) & 78ff;
Title 17, Code of Federal Regulations, Section 240.10b-5;
and Title 18, United States Code, Section 2.)

COUNT THREE
(Conspiracy to Commit Wire Fraud)

The United States Attorney further charges:

11. The allegations contained in paragraphs 1 through 5 and paragraph 8 of this Information are hereby repeated, realleged, and incorporated by reference, as if fully set forth herein.

12. From in or about 2016 through in or about 2018, in the Southern District of New York and elsewhere, MARTHA PATRICIA

BUSTOS, the defendant, CC-1, and others known and unknown, willfully and knowingly combined, conspired, confederated, and agreed together and with each other to commit wire fraud, in violation of Title 18, United States Code, Section 1343.

13. It was a part and an object of the conspiracy that MARTHA PATRICIA BUSTOS, the defendant, CC-1, and others known and unknown, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, would and did transmit and cause to be transmitted by means of wire, radio, and television communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, in violation of Title 18, United States Code, Section 1343.

(Title 18, United States Code, Section 1349.)

FORFEITURE ALLEGATION

14. As a result of committing one or more of the offenses alleged in Counts One through Three of this Information, MARTHA PATRICIA BUSTOS, the defendant, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461, all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of said offenses, including

but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of said offenses.

Substitute Asset Provision

15. If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

a. cannot be located upon the exercise of due diligence;

b. has been transferred or sold to, or deposited with, a third party;

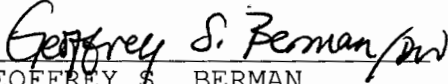
c. has been placed beyond the jurisdiction of the court;

d. has been substantially diminished in value; or

e. has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p) and Title 28, United States Code, Section 2461(c) to seek forfeiture of any other property of the defendant up to the value of the forfeitable property described above.

(Title 18, United States Code, Section 981; Title 21, United States Code, Section 853; and Title 28, United States Code, Section 2461.)


GEOFFREY S. BERMAN
United States Attorney

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(18 U.S.C. §§ 371, 2, and 1349;
15 U.S.C. §§ 78j(b) & 78ff;
17 C.F.R. § 240.10b-5.)

GEOFFREY S. BERMAN
United States Attorney
